

MATTHEW G. BEVIN  
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SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

ANTHONY R. HATTON  
COMMISSIONER

300 SOWER BOULEVARD  
FRANKFORT, KENTUCKY 40601

November 30, 2019

Mr. Bob Weiss  
Home Builders Association of Kentucky  
1040 Burlington Lane  
Frankfort, KY 40601

Mr. Josh Young  
East Kentucky Power Cooperative, Inc.  
4775 Lexington Road  
Winchester, KY 40391

Re: Response to Public Comments  
KPDES No.: KYR100000  
AI ID: 35050

Dear Commenter:

Your comments concerning the above-referenced draft permit have been reviewed and responses prepared in accordance with Kentucky Pollutant Discharge Elimination System (KPDES) regulation 401 KAR 5:075, Section 12. The comments have been briefly described below and our responses to those comments follow:

**Comment 1:** The Home Builders Association of Kentucky (HBAK) requested clarification to the regulation citations for signatory requirements and additional provisions to allow for individuals who are not officers or directors of companies to qualify to sign documents related to the permit.

**Response 1:** The Division of Water (DOW) further clarified the regulatory citations for signatories in Sections 2.2.9 and 3.1(7) of this permit to include citations of the applicable federal regulation. DOW expanded Section 2.2.9 to allow for a duly authorized representative to sign the SWPPP. DOW has maintained the signatory requirements in Section 3.1(7) of the permit, related to the Notice of Intent (NOI), to require signature and certification by a person who has decision-making functions for the corporation and more fully described in 401 KAR 5:060, Section 4 [40 CFR 122.22]. This permit's signatory requirements are consistent with EPA's 2017 Construction General Permit.

**Comment 2:** HBAK requests that a definition of the term "infeasible" be incorporated into this permit.

**Response 2:** The term "infeasible" is defined in Section 7.2 of the draft Fact Sheet and incorporated into Section 2 of the draft Permit. This has been carried through to the final Fact Sheet and final Permit. In addition, as further detailed in Section 4.1 of the Fact Sheet, this Permit requires the use of Best Management Practices (BMPs), selected in light of best industry practice and dependent upon individual site evaluations, to comply with non-numeric requirements of this permit.

**Comment 3:** HBAK requests DOW to provide contact information for an agency individual who can assist permittees with questions regarding receiving water(s).



**Response 3:** As stated on the eNOI instructions, the permittee is requested to contact the individual who serves as the Surface Water Permits Branch Storm Water Contact for the KYR10 at (502) 564-3410.

**Comment 4:** East Kentucky Power Cooperative, Inc. (EKPC) has concerns of the requirement under Section 2.1 of the Permit which requires permittees to post signage of permit coverage at a safe, publicly accessible location near the construction site. EKPC believes this to be a safety concern in particular for their construction projects involving energized high-voltage facilities and for their projects which are located in remote areas. EKPC believes the signage would invite public into close proximity, or within, their inherently dangerous construction sites and would also invite the public to conduct inspections of EKPC's discharge locations.

**Response 4:** The permittee is responsible for determining a safe, publicly accessible location in close proximity to the construction site. This permit does not require the permittee to grant public access to within its construction site. DOW has added additional language under Section 2.1 of the Permit to clarify that the notice be located so that it is visible from a public road.

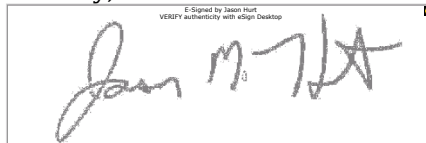
**Comment 5:** EKPC requests that Section 2.2.4 (5)(b)(vii) of the permit be clarified to not require lids/covers for on-site, roll-off type waste dumpsters for non-hazardous solid waste.

**Response 5:** Section 2.2.4 (5)(b)(vii) of the permit has been clarified. For waste containers that do not have lids, the SWPPP shall describe practices to either provide for a cover or a similarly effective means designed to minimize the discharge of pollutants. This requirement is consistent with EPA's 2017 Construction General Permit.

Any demand for a hearing on the permit shall be filed in accordance with the procedures specified in KRS 224.10-420, 224.10-440, 224.10-470 and any regulations promulgated thereto. Any person aggrieved by the issuance of a permit final decision may demand a hearing, pursuant to KRS 224.10-420(2), within thirty (30) days from the date of the issuance of this letter. Two (2) copies of request for hearing should be submitted in writing to the Energy and Environment Cabinet, Office of Administrative Hearings, 211 Sower Boulevard, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Energy and Environment Cabinet, Division of Water, 300 Sower Boulevard, Frankfort, Kentucky 40601. For your record keeping purposes, it is recommended that these requests be sent by certified mail. The written request must conform to the appropriate statutes referenced above.

If you have any questions regarding the KPDES decision, please contact the Surface Water Permits Branch by phone at (502) 564-3410 or via email at [SWPBSupport@ky.gov](mailto:SWPBSupport@ky.gov). Further information on procedures and legal matters pertaining to the hearing request may be obtained by contacting the Office of Administrative Hearings at (502) 564-7312.

Sincerely,

A rectangular box containing a handwritten signature in black ink. The signature appears to be "Peter T. Goodman". Above the signature, there is small text that reads "E-Signed by Jason Hunt" and "VERIFY authenticity with eSign Desktop".

**Peter T. Goodman, Director**  
Division of Water

PTG: JMH: asw  
Enclosure